

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

STATE OF MISSOURI,)	No. ED102714
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Francois County
vs.)	10SF-CR02059
)	
JOSEPH TROY WILSON, SR.,)	Honorable Sidney T. Pearson III
)	
Appellant.)	Filed: May 10, 2016

Joseph Troy Wilson, Sr. (“Defendant”) appeals the judgment entered upon a jury verdict convicting him of three counts of first-degree statutory sodomy (Counts II, III, and IV) and one count of first-degree child molestation (Count V) involving his minor children. The trial court’s written judgment¹ reflected a 999-year-sentence for Counts III and IV, while the court’s oral pronouncement of sentence reflected a sentence of life imprisonment for those two counts.

AFFIRMED AS MODIFIED.

Division Three holds:

- (1) The trial court did not commit reversible error in making an evidentiary ruling during the direct examination of defense witness Dr. Ann Duncan-Hively because Defendant has failed to demonstrate any prejudice resulted from the trial court’s ruling.
- (2) There is sufficient evidence to establish Defendant engaged in an act involving his genitals and S.V.’s anus, the act alleged in Count II.
- (3) The trial court did not plainly err in failing to intervene sua sponte during the prosecutor’s cross-examination of Defendant.
- (4) There is a material difference between the written judgment reflecting a 999-year-sentence for Counts III and IV and the oral pronouncement of a sentence of life imprisonment on those two counts. Because the oral pronouncement controls, we correct and modify the judgment in this case to reflect a sentence of life imprisonment for Counts III and IV, with the sentences to run consecutively with each other and with the sentences for Counts II and V.

¹ All references to the trial court’s written judgment refer to the court’s amended judgment entered on February 28, 2015.

Opinion by: Robert M. Clayton III, P.J.
Lawrence E. Mooney, J., and James M. Dowd, J., concur.

Attorney for Appellant: Rosalynn Koch

Attorney for Respondent: Chris Koster, Gregory L. Barnes

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS
BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT
BE QUOTED OR CITED.**